Consumer groups call for more oversight of energy regulation

By [Jim Snyder]

Consumer advocacy groups are pushing Democrats to step up oversight of a federal energy panel that oversees electricity markets and to take a fresh look at electricity-deregulation policies that they argue have raised consumer prices.

Deregulation critics sponsored a Washington conference Monday on the health of wholesale power markets that included officials in deregulated states where prices have jumped significantly.

On Capitol Hill, these critics have asked the new Democratic chairmen of the Senate Energy and Natural Resources and the House Energy and Commerce committees, Sen. Jeff Bingaman of New Mexico and Rep. John Dingell of Michigan, to hold hearings on how effective the Federal Energy Regulatory Commission (FERC) is in overseeing wholesale power markets.

Tyson Slocum, who directs Public Citizen's energy program, said deregulation has not led to competition in wholesale markets and that FERC has done a poor job of ensuring consumer rates are "just and reasonable."

Utilities, large commercial energy users and financial giants have formed their own coalition, called Compete, to counter anti-deregulation arguments.

Compete has hired the Nickles Group, founded by former Sen. Don Nickles (R-Okla.), Wexler Walker Public Policy Advocates, and Covington & Burling to lobby Congress and federal agencies on energy policy.

Electricity deregulation is not a hot topic in Congress. But in states that deregulated only to see prices rise and at FERC, which regulates wholesale power markets, the issue is a subject of significant debate; hence the formation of the lobby groups.

FERC itself waded again into the mix with its own conference Tuesday. Panel Chairman Joseph Kelliher acknowledged that competitive markets "face challenges." But he said the policy of a mix of competition and government oversight was made national by the Energy Policy Act of 2005.

"The fact that we are holding this conference shows that we have heard the criticism of stakeholders and market participants, and that we take these concerns seriously," Kelliher said.

Utilities say higher rates are the result of high natural-gas prices, not deregulation. They generally offer technical changes to the structure of the markets themselves rather than a return to the old days where regulators set rates based on the cost of generation plus a set fee.

Advocates once hoped that by bringing the same competitive pressures that reduced telephone rates and airline ticket prices, power prices would fall too. Under deregulation, vertically integrated utilities that produced the power and then transmitted it and sold it to consumers were broken up. Generation was separated from transmission and distribution.

Twelve states have fully deregulated their electricity markets, Slocum said. Those states pay higher electricity prices than the others. One reason these states embraced deregulation, however, was their power prices were higher than other regions to begin with. But rates have increased nearly 9 percent over the past four years in the 12 states, versus a 5 percent growth rate in the other 38 states, according to information Slocum cites from the Energy Information Administration, which collects a variety of energy data.

Advocates of deregulation had originally promised lower rates.

Joel Malina, a Wexler Walker lobbyist representing Compete, said rates in states that remain regulated have seen some of the sharpest increases in power prices in recent years. That means, he said, that rising price of fuels is to blame, not deregulation.

But he added that "no market is perfect." Deregulated markets are "evolving," he said.

Consumer groups seem split on the issue, based on whether they represent residential electricity users or large companies. The Electricity Consumers Resource Council, which represents large industrial users, says the current deregulation attempts have fallen short of promises.

But the group issued a paper in December rejecting calls to return to the old system because utilities had "little incentive to seek more efficient, lower-priced generation options or pursue innovative product offerings." The group said less regulation of so-called competitive markets was needed, not more.

The powerful senior lobby, AARP, meanwhile, has "serious concerns" about the rising electricity rates in markets that have been deregulated, said Debra Berlyn, a senior legislative representative for the group who attended the Monday conference.

"We've been active on the state level and now we are looking at what we can do to complement [that activity] on the federal level."